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6
7 BEFORE THE DIVISION OF MEDICAL QUALITY

8 BOARD OF MEDICAL QUALITY ASSURANCE

9 DEPARTMENT OF CONSUMER AFFAIRS

10 STATE OF CALIFORNIA

11 In the Matter of the Accusation)	No. D-3427
Against:)	
)	
12 ALBERT E. THILL, M.D.)	STIPULATION IN
2658 Nido Way)	SETTLEMENT AND
13 Laguna Beach, California 92651)	DECISION
)	
14 Physician's and Surgeon's)	
15 Certificate No. A-013488)	
)	
16 Respondent.)	

17
18 Albert E. Thill, M.D., respondent and Kenneth Wagstaff,
19 Executive Director of the Board of Medical Quality Assurance,
20 stipulate and agree:

21 1. An accusation against respondent, No. D-3427, was
22 filed November 13, 1985, and is pending.

23 2. Respondent has reviewed this matter with his
24 attorney, Marc S. Klein, Esq., concerning the accusation and
25 this stipulation.

26 3. Respondent is aware of the charges in the
27 accusation, and is aware of his rights to a hearing, to

EXH 3
ID
[Signature]

1 reconsideration, appeal, and his other rights pursuant to the
2 Administrative Procedure Act.

3 4. In consideration for entering into the stipulation,
4 respondent waives his rights to a hearing, reconsideration and
5 appeal and agrees this stipulation shall resolve and terminate
6 the proceeding commenced by the accusation.

7 5. For purposes of this settlement and for no other
8 purposes, respondent admits that the allegations of paragraph
9 four of the accusation are true.

10 6. Based on paragraph five, supra, respondent
11 acknowledges cause for discipline against him has been established
12 under Business and Professions Code section 2236(a) and 2237.

13 7. Based upon the accusation and the foregoing
14 admissions, the parties stipulate the Division of Medical
15 Quality may issue an order upon this Stipulation as follows:

16 A. Certificate No. A 27978 issued to
17 respondent is revoked.

18 B. However, revocation is stayed and
19 respondent is placed on probation for five years
20 upon the following terms and conditions:

21 (1) As part of probation, respondent is
22 suspended from the practice of medicine for six
23 months beginning the effective date of this
24 decision, with credit given for time already served
25 at Lompoc Federal Prison.

26 (2) Within 60 days of the effective date
27 of this decision, respondent shall take and pass an

1 oral/clinical examination in family practice to be
2 administered by the Division or its designee. If
3 respondent fails this examination, respondent must
4 wait sixty days between reexaminations, except that
5 after three failures, respondent must wait one year
6 to take each necessary reexamination thereafter.
7 The Division shall pay the cost of the first
8 examination and respondent shall pay the costs of
9 any subsequent examinations.

10 Respondent shall not practice medicine
11 until respondent has passed this examination and
12 has been so notified by the Division in writing.
13 Respondent may, however, take the examination prior
14 to the effective date of the decision, but after
15 acceptance of the stipulation by the Division.

16 (3) Respondent shall not prescribe,
17 administer, dispense, order or possess any
18 controlled substances as defined by the California
19 Uniform Controlled Substances Act, except for those
20 drugs listed in Schedules 4 and 5 of the Act.

21 Respondent shall immediately surrender
22 respondent's current DEA permit to the Drug
23 Enforcement Administration for cancellation and
24 reapply for a new DEA permit limited to those
25 schedules authorized by this order.

26 (4) Respondent is prohibited from
27 engaging in solo practice. Within 30 days of the

1 effective date of this decision, respondent shall
2 submit to the Division, and receive its prior
3 approval for, a plan of practice limited to a
4 supervised, structured environment in which
5 respondent's activities will be overseen and
6 supervised by another physician.

7 (5) Within 90 days of the effective date
8 of this decision, and on an annual basis,
9 thereafter, respondent shall submit to the Division
10 for its prior approval, an educational program or
11 course related to pharmacological therapeutics,
12 which shall not be less than 40 hours per year, for
13 each year of probation. This program shall be in
14 addition to the Continuing Medical Education
15 requirements for re-licensure. Following the
16 completion of each course, the Division or its
17 designee may administer an examination to test
18 respondent's knowledge of the course. Respondent
19 shall provide proof of attendance for 65 hours of
20 continuing medical education of which 40 hours were
21 in satisfaction of this condition and were approved
22 in advance by the Division.

23 (6) Respondent shall obey all federal,
24 state, and local laws, and all rules governing the
25 practice of medicine in California.

26 (7) Respondent shall submit quarterly
27 declarations under penalty of perjury on forms

1 provided by the Division, stating whether there has
2 been compliance with all the conditions of probation.

3 (8) Respondent shall comply with the
4 Division's surveillance program.

5 (9) Respondent shall appear in person for
6 interviews with the Division's medical consultant
7 upon request at various intervals and with
8 reasonable notice.

9 (10) In the event respondent should leave
10 California to reside or to practice outside the State,
11 respondent must notify the Division in writing of the
12 dates of departure and return. Periods of residency
13 or practice outside California will not apply to the
14 reduction of this probationary period.

15 C. Upon successful completion of probation,
16 respondent's certificate will be fully restored.

17 D. If respondent violates probation, the
18 Division, after giving respondent notice and the
19 opportunity to be heard, may revoke probation and
20 carry out the disciplinary order that was stayed.
21 If an accusation or petition to revoke probation is
22 filed against respondent during probation, the
23 Division shall have continuing jurisdiction until
24 the matter is final.

25 8. If this Stipulation is not accepted by the Division
26 in its entirety, it shall be withdrawn by the parties, and have
27 no effect whatsoever.

I HAVE READ THE FOREGOING STIPULATION, HAVE BEEN
COUNSELLED WITH RESPECT TO ITS TERMS, AND FREELY AND VOLUNTARILY
AGREED THERETO:

DATED: 10/23/86 Albert E. Thill M.D.
ALBERT E. THILL, M.D.
Respondent

DATED: 10/27/86 Marc S. Klein Esq.
MARC S. KLEIN, Esq.

DATED: 11/4/86 John K. Van De Kamp
JOHN K. VAN DE KAMP
Attorney General
Alvin J. Korobkin
ALVIN J. KOROBKIN
Deputy Attorney General
Attorneys for Complainant

The foregoing Stipulation is accepted as the decision of
the Division of Medical Quality.

IT IS SO ORDERED this 18th day of November,
1986.

The effective date of this decision shall be
December 18, 1986.

John L. Simon
DIVISION OF MEDICAL
Board of Medical Quality Assurance
State of California

AJK:gm

1 the Board issued respondent a certificate of approval to
2 supervise a physician's assistant. This certificate is in
3 delinquent status, having expired February 28, 1982.

4 3. This accusation is made in reference to the
5 following sections of the Business and Profession Code:

6 A. Sections 2220 and 2234(a) provide, in
7 part, that the Division may take action against all persons
8 guilty of violating the provisions of the Medical Practice
9 Act.

10 B. Sections 2236(a) and (b) provide:

11 "(a) The conviction of any offense
12 substantially related to the qualifications, functions,
13 or duties of a physician and surgeon constitutes
14 unprofessional conduct within the meaning of this
15 chapter.

16 "(b) The division may inquire into the
17 circumstances surrounding the commission of the crime
18 in order to fix the degree of discipline or to
19 determine if such conviction is of an offense
20 substantially related to the qualifications, functions,
21 or duties of a physician and surgeon.

22 "(c) The conviction of a charge of
23 violating any federal statutes or regulations or any
24 statute or regulation of this state, regulating
25 narcotics, dangerous drugs, or controlled substances,
26 constitutes unprofessional conduct. The record of the
27 conviction is conclusive evidence of such

1 unprofessional conduct. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is
3 deemed to be a conviction within the meaning of this
4 section.

5 "(d) Section 3527 provides, in pertinent
6 part, that the board may order the suspension and
7 revocation of, or the imposition of probationary
8 conditions upon, an approval to supervise a physician's
9 assistant for unprofessional conduct which includes,
10 but is not limited to, a violation of the State Medical
11 Practice Act, or a violation of the regulations adopted
12 by the Board.

13 "(e) Section 118, subdivision (B), of the
14 Business and Professions Code provides, in pertinent
15 part, that the expiration by operation of law of a
16 license issued by a board shall not during any period
17 in which it may be renewed, deprive the board of its
18 authority to institute or continue a disciplinary
19 proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or
21 revoking the license or otherwise taking disciplinary
22 action against the licensee on any such ground."

23 4. Respondent is subject to discipline on account of
24 the following:

25 On March 25, 1985, in the United States District
26 Court for the Central District of California, respondent was
27 convicted on his plea of guilty of two counts of violation of

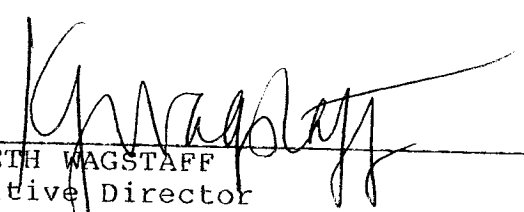
1 Title 21, United States Code, section 841(a)(1), intentionally
2 writing Schedule II controlled substance prescriptions
3 (Preludin, 75mg. Endurets) outside the usual course of his
4 professional practice and not for a legitimate medical purpose.

5 Respondent was sentenced to 18 months in prison, a
6 \$5,000 fine, two years special parole and four years additional
7 probation.

8 The above conviction is substantially related to the
9 qualifications, functions and duties of a physician and surgeon
10 and constitutes unprofessional conduct and grounds for
11 discipline under Business and Professions Code, section 2236(a)
12 and 2237 in conjunction with sections 2220 and 2234(a) and
13 section 3527.

14 WHEREFORE, complainant prays a hearing be held on
15 the matters alleged and after hearing and the taking of evidence
16 that the Division issue an order revoking or suspending
17 respondent's certificate or placing him on probation.

18 DATED: November 13, 1985

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KENNETH WAGSTAFF
Executive Director
Board of Medical Quality Assurance
Department of Consumer Affairs
State of California

Complainant